

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVON HAYES

Plaintiff,

v.

JEROME W. WALSH, et al.,

Defendants.

CIVIL ACTION NO. 3:11-1739

(JUDGE CAPUTO)

(MAGISTRATE JUDGE SMYSER)

ORDER

NOW, this 27th day of June, 2012, **IT IS HEREBY ORDERED** that Magistrate Judge Smyser's Report and Recommendation (Doc. 45) is **REJECTED in part and ADOPTED in part**.

- (1) The uncontested portions of the Report and Recommendation are **ADOPTED in their entirety**.
- (2) The recommendation to permit Plaintiff to proceed on his procedural due process claim against the officials that participated in the review of his disciplinary appeals is **REJECTED**. The procedural due process claim against Defendants Gordon, Demming, Zakaruskas, Josefowicz, Walsh, and MacIntyre is **DISMISSED with prejudice**.
- (3) Defendant MacIntyre is **DISMISSED** from the action.
- (4) The matter is **RECOMMITTED** to Magistrate Judge Smyser for further proceedings.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge